

superseded by this Amendment No. 1. In response to the OIP, the Council of Institutional Investors (“CII”) submitted a comment letter dated January 7, 2021.<sup>17</sup> Simultaneous to the submission of this Amendment No. 1, the Exchange is submitting a comment letter in response to the Commission’s OIP. That comment letter addresses the issues raised in the CII comment letter.

### III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic Comments

- Use the Commission’s internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR–NASDAQ–2020–062 on the subject line.

#### Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.
- All submissions should refer to File Number SR–NASDAQ–2020–062. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments

<sup>17</sup> See Letter from Jeffrey P. Mahoney, Council of Institutional Investors Letter to Secretary, Securities and Exchange Commission (January 7, 2021). CII also raised concerns with the SPAC structure that are outside the scope of Nasdaq’s proposal.

received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2020–062, and should be submitted on or before April 6, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>18</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

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**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91287; File No. SR–LTSE–2021–01]

### Self-Regulatory Organizations; Long-Term Stock Exchange, Inc.; Order Approving Proposed Rule Change To Amend LTSE Rule 14.501 To Specify the Process for Enforcing Compliance With LTSE Rule 14.425 for Listed Companies

March 10, 2021.

#### I. Introduction

On January 19, 2021, Long-Term Stock Exchange, Inc. (“LTSE” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b–4 thereunder, <sup>2</sup> a proposed rule change to amend Rule 14.501(d)(2)(A)(iii) to specify the process for enforcing compliance with LTSE Rule 14.425, which requires each listed company of the Exchange to adopt and publish “Long-Term Policies” as set forth in the rule. The proposed rule change was published for comment in the **Federal Register** on February 4, 2021. <sup>3</sup> No comment letters were received in response to the Notice. This order approves the proposed rule change.

#### II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 14.501(d)(2)(A)(iii) to specify the process under LTSE Rule Series 14.500

<sup>18</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 91019 (January 29, 2021), 86 FR 8243 (February 4, 2021) (“Notice”).

for enforcing compliance with LTSE Rule 14.425, which requires listed Companies <sup>4</sup> to adopt and publish Long-Term Policies consistent with a defined set of principles (the “Principles”) articulated in LTSE Rule 14.425(b). <sup>5</sup> As the Exchange states, LTSE Rule 14.425(a) requires Companies to adopt and publish the following policies: A Long-Term Stakeholder Policy; a Long-Term Strategy Policy; a Long-Term Compensation Policy; a Long-Term Board Policy; and a Long-Term Investor Policy (collectively, the “Policies”). <sup>6</sup> LTSE Rule 14.425(b) establishes that Companies have flexibility in developing what they believe to be appropriate policies for their businesses on condition that each of the Policies must be consistent with the Principles. <sup>7</sup> Under LTSE Rule 14.425(c), Companies also are required to review their Policies at least annually, make them publicly available free of charge on or through their websites, and provide related disclosures in certain filings with the Commission. <sup>8</sup> In addition, the Exchange has represented to the Commission that it will enforce the provisions of LTSE Rule 14.425 by ensuring that each Company has addressed all of the requirements enumerated for each of the prescribed Policies, consistent with the Principles, and that each Company has made the Policies publicly available without cost. <sup>9</sup>

Currently, LTSE states that it enforces the provisions of LTSE Rule 14.425 through a number of rules in the LTSE Rulebook. <sup>10</sup> The Exchange notes that, under LTSE Rule 14.101, the Exchange may at all times exercise its broad discretionary authority to suspend or delist Companies based on any event, condition, or circumstance that exists or

<sup>4</sup> “Company” means the issuer of a security listed or applying to list on the Exchange. For purposes of Chapter 14 of the LTSE Rules, the term “Company” includes an issuer that is not incorporated, such as, for example, a limited partnership. See LTSE Rule 14.002(a)(5).

<sup>5</sup> See Notice, *supra* note 3, at 8244. LTSE Rule Series 14.500 sets forth the procedures of the Exchange relating to a Company’s failure to meet the listing standards in Chapter 14 of the Exchange’s rules, which comprises the corporate governance standards set forth in Rule Series 14.400, including Rule 14.425 regarding Long-Term Policies.

<sup>6</sup> See *id.* See also Securities Exchange Act Release No. 86722 (August 21, 2019), 84 FR 44952 (August 27, 2019) (SR–LTSE–2019–01) (“Long-Term Policies Approval Order”) (Order Approving Proposed Rule Change To Adopt Rule 14.425, Which Would Require Companies Listed on the Exchange To Develop and Publish Certain Long-Term Policies).

<sup>7</sup> See Notice, *supra* note 3, at 8244.

<sup>8</sup> See *id.*

<sup>9</sup> See *id.* See also Long-Term Policies Approval Order, *supra* note 6, at 44954.

<sup>10</sup> See Notice, *supra* note 3, at 8244.

occurs that makes initial or continued listing of the securities on the Exchange inadvisable or unwarranted in the opinion of the Exchange to protect investors and the public interest, among other objectives.<sup>11</sup> Under LTSE Rule 14.500(a), LTSE staff is responsible for identifying deficiencies that may lead to delisting.<sup>12</sup> Under LTSE Rule 14.410, a Company is required to provide the Exchange with prompt notification after an Executive Officer of the Company becomes aware of any noncompliance by the Company with the LTSE Rule Series 14.400, which includes Rule 14.425.<sup>13</sup> Under LTSE Rule 14.207(a)(1), the Exchange may request any additional information or documentation, public or non-public, deemed necessary to make a determination regarding a Company's continued listing, and a Company may be denied continued listing if it fails to provide such information within a reasonable period of time.<sup>14</sup> In addition, the Exchange states that it plans to monitor Company compliance with Rule 14.425 annually and on an ad hoc basis.<sup>15</sup>

Finally, LTSE Rule 14.501 sets forth the provisions regarding the Exchange's process for notifying Companies regarding different types of deficiencies and their corresponding consequences.<sup>16</sup> The Exchange states that there are four types of Company deficiency notifications that the Exchange may issue pursuant to LTSE Rule 14.501(a): (i) Staff Delisting Determinations, which are notifications of deficiencies that, unless appealed, subject the Company to immediate suspension and delisting; (ii) notifications of deficiencies for which the Company may submit a plan of compliance ("Plan of Compliance") for staff review; (iii) notifications of deficiencies for which a Company is entitled to an automatic cure or compliance period; and (iv) Public Reprimand Letters.<sup>17</sup> LTSE Rule 14.501(d) identifies the deficiencies that fall within each of these four categories,<sup>18</sup> and provides that in the case of a deficiency not specified in LTSE Rule 14.501(d)(1)–(4), LTSE staff will issue either a Staff Delisting Determination or a Public Reprimand Letter.<sup>19</sup>

The Exchange proposes to amend LTSE Rule 14.501(d)(2)(A)(iii) to specify that deficiencies relating to LTSE Rule 14.425 would be included among those for which a Company may submit a Plan of Compliance for staff review.<sup>20</sup> The Exchange states that this would be similar to how other corporate governance rules are handled generally in LTSE Rule 14.501(d)(2)(A)(iii).<sup>21</sup> Under LTSE Rule 14.501(d)(2)(C), a Company has 45 calendar days to submit a plan to regain compliance.<sup>22</sup> According to the Exchange, LTSE staff may extend this deadline for up to an additional five calendar days upon good cause shown and may request such additional information from the Company as is necessary to make a determination regarding whether to grant such an extension.<sup>23</sup> The Exchange asserts that this time period appropriately balances the interests of the Exchange in ensuring compliance with its listing standards with the application of principles-based listing standards by the Company.<sup>24</sup>

According to the Exchange, the process for reviewing such a Plan of Compliance is set forth in LTSE Rule 14.501(d)(2)(B) and would be unchanged by this proposal.<sup>25</sup> Under that provision, the Exchange may provide the Company with up to 180 days to regain compliance (with certain exceptions), issue a Staff Delisting Determination letter, or issue a Public

Reprimand Letter in accordance with LTSE Rule 14.501(d)(4).<sup>26</sup> Under LTSE Rule 14.500(a), a Public Reprimand Letter or Staff Delisting Determination, upon timely request by a Company, is subject to review by a Listings Review Committee, which will adjudicate the request in accordance with the procedures and timelines set forth in LTSE Rules 14.502, 14.504, and 14.505.<sup>27</sup>

The Exchange asserts that providing an opportunity for remediation to Companies that face a deficiency with respect to LTSE Rule 14.425 will allow Companies to formulate effective Policies tailored to Company-specific needs.<sup>28</sup> The Exchange argues that the ability to tailor Policies, if necessary, to changing circumstances, while remaining anchored to the Principles, is essential for ensuring that the Policies are effective and meaningful tools for supporting long-term value creation for Companies and their investors.<sup>29</sup> To that end, the Exchange maintains that, in case of a deficiency, Companies will be able to achieve compliance by changing Policies or practices related to the deficiency, amending the applicable Policies, or some combination of both, provided that the changes are consistent with the Principles.<sup>30</sup>

### III. Discussion and Commission Findings

The Commission has carefully reviewed the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act.<sup>31</sup> In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>32</sup> which requires, among other things, that rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and that those rules are not designed to

<sup>20</sup> See *id.* at 8244. The proposed rule change would also remove two erroneous "or"s in LTSE Rule 14.501(d)(2)(A)(iii). See *id.* at 8244 n.8.

<sup>21</sup> See *id.* (citing LTSE Rules 14.408(a) (Meetings of Shareholders), 14.408(c) (Quorum), 14.411 (Review of Related Party Transactions), 14.412 (Shareholder Approval), 14.406 (Code of Conduct), 14.407(a)(4)(D) (Partner Meetings of Limited Partners), 14.407(a)(4)(E) (Quorum of Limited Partnerships), 14.407(a)(4)(G) (Related Party Transactions of Limited Partnerships), 14.413 (Voting Rights), and 14.414 (Internal Audit Function)).

<sup>22</sup> See *id.* at 8244.

<sup>23</sup> See *id.*

<sup>24</sup> See *id.* The Exchange also states that, notwithstanding the mandated period to submit a Plan of Compliance and regain compliance under LTSE Rule 14.501(d)(2), as set forth in LTSE Rule 14.501(c) and repeated in LTSE Rule 14.207(b)(2), "a listed Company that receives a notification of deficiency from the Exchange is required to make a public announcement by filing a Form 8-K, where required by [Commission] rules, or by issuing a press release disclosing receipt of the notification and the Rule(s) upon which the deficiency is based, and describing each specific basis and concern identified by the Exchange in reaching its determination that the Company does not meet the listing standard." For avoidance of doubt, the Exchange further states that a request for information by LTSE staff pursuant to LTSE Rule 14.207(a)(1), absent a notification of deficiency, will not require a public announcement by the subject Company pursuant to LTSE Rules 14.501(c) or 14.207(b)(2). See *id.* at 8244 n.9.

<sup>25</sup> See *id.* at 8244.

<sup>26</sup> See *id.*

<sup>27</sup> See *id.*

<sup>28</sup> See *id.* at 8245.

<sup>29</sup> See *id.*

<sup>30</sup> See *id.* For the avoidance of doubt, the Exchange states that each Company shall be solely responsible for ensuring any changes in its practices to conform to its Policies do not violate any legal, regulatory, contractual, or other requirements applicable to the Company. See *id.* at 8245 n.11.

<sup>31</sup> 15 U.S.C. 78f. In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

<sup>32</sup> 15 U.S.C. 78f(b)(5).

<sup>11</sup> See *id.* at 8245.

<sup>12</sup> See *id.* at 8244.

<sup>13</sup> See *id.*

<sup>14</sup> See *id.*

<sup>15</sup> See *id.* at 8244 n.6.

<sup>16</sup> See *id.* at 8244.

<sup>17</sup> See *id.*

<sup>18</sup> See *id.*

<sup>19</sup> See *id.* at 8244 n.7.

permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission notes that the proposed rule change will bring the Exchange's handling of deficiencies in a Company's compliance with LTSE Rule 14.425 into alignment with its handling of deficiencies in a Company's compliance with other LTSE Rules pertaining to corporate governance,<sup>33</sup> as detailed in the adjudicatory process set forth in LTSE Rule Series 14.500. The Commission further notes that any Company listed on LTSE would already have had to adopt and publish Long-Term Policies prior to being accepted for listing. The Commission therefore believes it is reasonable to afford a Company the opportunity to submit a Plan of Compliance should a deficiency subsequently arise in this area. The Commission notes in this regard that, in addition to submitting a Plan of Compliance, a listed Company that receives a deficiency notification from the Exchange is required to make a public announcement that discloses its receipt of the notification and the basis for it, and that such announcement must be made as promptly as possible but not more than four business days following receipt of the notification.<sup>34</sup> Based on the foregoing, the Commission finds that the proposed rule change is consistent with the Act.

#### IV. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>35</sup> that the proposed rule change (SR-LTSE-2021-01), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>36</sup>

**J. Matthew DeLesDernier**,  
Assistant Secretary.

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Notice of Modification of Section 301 Action: Enforcement of U.S. WTO Rights in the Large Civil Aircraft Dispute

**AGENCY:** Office of the United States  
Trade Representative (USTR).

**ACTION:** Notice.

**SUMMARY:** The U.S. Trade  
Representative has determined to

modify the action being taken in the investigation by suspending the additional tariffs on goods of the European Union for a period of four months. The suspension is in accord with a joint U.S.-EU statement that promotes a resolution of the large civil aircraft dispute.

**DATES:** As of 12:01 a.m. eastern standard time on March 11, 2021, the additional duties on products of the European Union covered by the action taken in this investigation are suspended for a period of four months.

**FOR FURTHER INFORMATION CONTACT:** For questions about the investigation or this notice, contact Associate General Counsel Megan Grimball, at (202) 395-5725, or Director for Europe Michael Rogers, at (202) 395-3320.

#### SUPPLEMENTARY INFORMATION:

##### A. Proceedings in the Investigation

For background on the proceedings in this investigation, please see prior notices, including: Notice of initiation, 84 FR 15028 (April 12, 2019); notice of determination and action, 84 FR 54245 (October 9, 2019); and notices concerning revisions or modifications of action, 85 FR 10204 (February 21, 2020), 85 FR 50866 (August 18, 2020), 86 FR 674 (January 6, 2021), 86 FR 9420 (February 12, 2021), and FR Doc. 2021-05035 (March 11, 2021).

##### B. Modification of Action

Section 307(a) of the Trade Act of 1974, as amended, (Trade Act) provides that the U.S. Trade Representative may modify or terminate any action subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 301 if any of the conditions described in section 301(a)(2) exist. Section 301(a)(2)(B)(iv) of the Trade Act provides that the U.S. Trade Representative is not required to take action under section 301(a)(1) "in extraordinary cases, where the taking of action . . . would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of [actions taken under section 301]."

On March 5, 2021, the United States and the European Union issued a Joint Statement promoting a resolution of the large civil aircraft dispute:

The European Union and the United States today agreed on the mutual suspension for four months of the tariffs related to the World Trade Organization (WTO) Aircraft disputes. The suspension will cover all tariffs both on aircraft as well as on non-aircraft products,

and will become effective as soon as the internal procedures on both sides are completed.

This will allow the EU and the US to ease the burden on their industries and workers and focus efforts towards resolving these long running disputes at the WTO.

The EU and the US are committed to reach a comprehensive and durable negotiated solution to the Aircraft disputes. Key elements of a negotiated solution will include disciplines on future support in this sector, outstanding support measures, monitoring and enforcement, and addressing the trade distortive practices of and challenges posed by new entrants to the sector from non-market economies, such as China.

These steps signal the determination of both sides to embark on a fresh start in the relationship.

Promoting a successful resolution of the dispute by suspending the additional duties provides benefits to the U.S. economy that outweigh any adverse impacts on the U.S. economy, and the suspension maintains the credibility of the section 301 action. Accordingly, the U.S. Trade Representative has determined, in accordance with sections 307(a) and 301(a)(2)(B)(iv) of the Trade Act, to modify the action by suspending the additional duties on products of the European Union for four months. The decision to modify the action takes into account the public comments received in response to prior notices issued in the investigation as well as the advice of the interagency Section 301 Committee.

To give effect to the U.S. Trade Representative's determination, as specified in the Annex to this notice, the additional duties imposed by subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.37, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.52, 9903.89.55, 9903.89.57, 9903.89.59, 9903.89.61, and 9903.89.63, and as provided by their associated subchapter notes, will not apply to products of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Sweden, that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on March 11, 2021, and before 12:01 a.m. eastern daylight time on July 11, 2021.

Any product of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus,

<sup>33</sup> See *supra* note 21 and accompanying text.

<sup>34</sup> See LTSE Rule 14.501(c); *supra* note 24.

<sup>35</sup> 15 U.S.C. 78s(b)(2).

<sup>36</sup> 17 CFR 200.30-3(a)(12).